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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/726,367
Filing Date: November 29, 2000
Appellant(s): CHAPMAN ET AL.

MAILED

JAN 25 2008

Technology Center 2600

Victor G. Cooper
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 5th, 2007 appealing from the
Office action mailed March 12th, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,883,677	Hofmann	3-1999
5,867,207	Chaney et al.	2-1999
6,434,384	Norin et al.	8-2002
6,133,910	Stinebruner	10-2000
6,401,242	Eyer et al.	6-2002
6,072,983	Klosterman	6-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-3, 6-7, 9-11, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (US 5,883,677) in further view of Chaney et al. (US 5,867,207) and Norin et al. (US 6,434,384 B1).

As to claim 1, note the Hofmann reference that teaches a method and apparatus for managing multiple outside video service providers. The claimed "broadcasting first program guide information describing the first set of programs to the subscribers [...]" and "broadcasting second program guide information describing the second set of programs" is met by "[f]irst, at least two signals each from a different source and originating from outside the home are received where each of the two signals contains a respective program information stream" (Hofmann 2:29-35). Note the Hofmann et al. reference teaches providing the first program guide information on a first signal and the second program guide information on a second signal. However, the Hofmann et al. reference does not specifically teach providing the first and second program guide information on a first service channel. Now note the Chaney

et al. reference that teaches a program guide in a digital video system wherein "[e]ach service of each program is identified by a unique Service Component Identifier (SCID), a service channel (Chaney 4:20- 25). The claimed program guide information provided on a "first service channel" is met by the assignment of a specific SCID to the program guide packetized data (Chaney 4:60-65) wherein the Chaney et al. reference teaches that the subject matter of this system is applicable to both satellite and terrestrial broadcasting (Chaney 2:66-3:3). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann transmission of program guides on a signal from a given source with the Chaney et al. service channels including the transmission of program guide information on a first service channel for the purpose of providing a means for transmitting program information to a user in a manner that facilitates efficient retrieval of the program guide information from the transmission stream. Although the Hofmann reference teaches the broadcasting/receipt of program guide information from a plurality of difference sources (Hofmann 2:29-35), the Hofmann reference does not specifically teach broadcasting the second program guide information to a subset of the subscribers and "wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal". Now note Norin et al. reference that teaches a non-uniform multi-beam satellite communications system and method wherein "It]he present invention provides a new and improved, highly efficient system and method for satellite broadcast of local television and other types

of service [independently] with larger regional broadcasts" (Norin 2:11-15) and "[i]n the preferred system the majority of the available channels are used for nationwide broadcasts, with the remaining channels reserved for local service beams" (Norin 7:46-48). The claimed "wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal" is met by the "32 transponder channels are typical for satellite television broadcasts in a given service, representing 16 different channels 24 MHz wide and separated by approximately 5 MHz, and two orthogonal polarizations..., for each frequency band" (Norin 7:41-46). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann merging of program guide information from a plurality of different sources with the Norin global and localized (global subset) programming transmissions and different fundamental signal characteristics for the purpose of providing global and local programming while minimizing interference between the different programming streams and providing a more efficient utilization of satellite capacity (Norin 3:15-4:27). The modified system, using satellite television broadcasts for transmitting the second signal (as taught by Norin) and using satellite television broadcast for transmitting the first signal (as taught by Hoffman) two signals transmitting the first and second program guide information over a common delivery system (satellite delivery system), and therefore same network. Furthermore, it can also be seen that Hofman and Norin further teach the step of the first signal transmitting a first set of programs not a second set of programs (see Hofman figures 9A and 9B, wherein

programs offered by one service are not offered by the second service, and see Norin column 2, lines 12-15, wherein the second set of programs are "local broadcasts" transmitted independently of larger regional services).

As to claim 2, the claimed "wherein the fundamental signal characteristic is carrier frequency" and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency" is met by the Hofmann, Chaney, and Norin combination as discussed in the rejection of claim 1 wherein global programming and local programming may be transmitted on different frequency bands (Norin 7:41-46).

As to claim 3, the claimed "wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization" is met by the Hofmann, Chaney, and Norin combination as discussed in the rejection of claim 1 wherein global programming and local programming may be transmitted using different polarizations (Norin 7:41-46).

As to claims 6 and 7, the modified system discloses that the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of subscribers that are designated to receive the second set of programs (see Norin: column 2 lines 12-15 and lines 17-26). The limitation of "wherein the second signal is a spot beam directed at the subset of subscribers" is met by the local beam broadcast.

As to claims 9-11, please see the rejections of claims 1-3 respectively.

As to claims 34-36, please see rejection of claim 1.

2. Claims 4, 5, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (US 5,883,677) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B 1), and Stinebruner (US 6,133,910).

As to claim 4, the claimed "wherein the first program guide information includes information describing at least one surrogate channel." Note the Hofmann reference discloses television schedule guide information can be received from numerous sources (Hofmann 2:29- 35) and the guide information is merged (Hofmann 3:20-26). However, the Hofmann reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed "wherein the first program guide information includes information describing at least one surrogate channel" is met by "[a] DBS content provider may even allocate blank channels to local programming" (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing "individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels" (Stinebruner 7:30-35).

As to claim 5, the claimed "wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal" is met by

the Hofmann and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Hofmann 7:64-8:12).

As to claim 12, the claimed "wherein the first program guide information includes information describing at least one surrogate channel." Note the Hofmann reference discloses television schedule guide information can be received from numerous sources (Hofmann 2:29- 35) and the guide information is merged (Hofmann 3:20-26). However, the Hofmann reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed "wherein the first program guide information includes information describing at least one surrogate channel" is met by "[a] DBS content provider may even allocate blank channels to local programming" (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing "individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels" (Stinebruner 7:30-35). The claimed "accepting a selection of at least one of the at least one surrogate channels in a receiver; and receiving the second signal at the second carrier frequency on the first service channel" is met by the Hofmann and Stinebruner combination wherein if the user selects a channel from a second source

then the second source is selected and the appropriate channel tuned (Hofmann 7:64-8:12).

With regards to claims 13-14, the modified system discloses that the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of subscribers that are designated to receive the second set of programs (see Norin: column 2 lines 12-15 and lines 17-26). The limitation of "wherein the second signal is a spot beam directed at the subset of subscribers" is met by the local beam broadcast.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (US 5,883,677) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B1) and Eyer et al. (US 6,401,242).

As to claim 8, note the Hofmann reference discloses television schedule guide information can be received from numerous sources (Hofmann 2:29-35) and the guide information is merged (Hofmann 3:20-26). However, the Hofmann reference is silent as to "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs." Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs" is met by some of the programming received from CATV may also be included in the program services transmitted via satellite

wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (US 5,883,677) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B1), Stinebruner (US 6,133,910) and Eyer et al. (US 6,401,242).

As to claim 15, note the Hofmann reference discloses television schedule guide information can be received from numerous sources (Hofmann 2:29-35) and the guide information is merged (Hofmann 3:20-26). However, the Hofmann reference is silent as to "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs." Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs" is met by some of the programming received from CATV may also be included in the program services transmitted via satellite

wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hofmann television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

5. Claims 16-18, 23-28, 31-32, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Chaney et al. (US 5,867,207) and Norin et al. (US 6,434,384 B1).

As to claim 16, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include "an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal" (Klosterman 3:5-10). The claimed "user interface for accepting subscriber commands" is met by "[r]emote 32 can be utilized by the user to program coordinator 20 or to move between different channels, times and shows in grid guide 50" (Klosterman 8:5-7). The claimed "tuner selectably configurable to receive [...] a first signal and [...] a second signal" is met by the tuner for the receipt of program schedule information from each distinct source (Klosterman 4:55-5:21). The claimed "the first signal comprising a first set of programs and first program

information describing the first set of programs" is met by "IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system" (Klosterman 4:55-58) wherein broadcasting is inherent to receipt of the television programs and other information. The claimed "second signal comprising a second set of programs and second program guide information describing the second set of programs" is met by "program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider" (Klosterman 4:66- 5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a subset of the DBS channels. Note the Klosterman reference teaches that program information can be received via a transponder on DBS (Klosterman 6:1-3). However, the Klosterman reference does not specifically disclose the transmission of the first and second set of program information on a first service channel. Now note the Chaney et al. reference that teaches a program guide in a digital video system wherein "[e]ach service of each program is identified by a unique Service Component Identifier (SCID), a service channel (Chaney 4:20-25). The claimed program guide information provided on a "first service channel" is met by the assignment of a specific SCID to the program guide packetized data (Chaney 4:60-65) wherein the Chaney et al. reference teaches that the subject matter of this

system is applicable to both satellite and terrestrial broadcasting (Chaney 2:66- 3:3). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman tuner for receiving program with the Chaney et al. service channels including the transmission of program guide information on a first service channel for the purpose of providing a means for transmitting program information to a user in a manner that facilitates efficient retrieval of the program guide information from the transmission stream. Note the Klosterman reference discloses "television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources" (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal characteristics. Now note Norin et al. reference that teaches a non-uniform multi-beam satellite communications system and method wherein "[t]he present invention provides a new and improved, highly efficient system and method for satellite broadcast of local television and other types of service [independently] with larger regional broadcasts" (Norin 2:11-15) and "[i]n the preferred system the majority of the available channels are used for nationwide broadcasts, with the remaining channels reserved for local service beams" (Norin 7:46-48). The claimed "wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal" is met by the "32 transponder channels are typical for satellite television broadcasts in a given service, representing 16 different channels 24 MHz wide and separated by approximately 5 MHz, and two orthogonal

polarizations...for each frequency band" (Norin 7:41-46). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman merging of program guide information from a plurality of different sources with the Norin global and localized (global subset) programming transmissions and different fundamental signal characteristics for the purpose of providing global and local programming while minimizing interference between the different programming streams and providing a more efficient utilization of satellite capacity (Norin 3:15-4:27). The claimed "processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface" is met by "[c]oordinator 20 includes processor (CPU) 36 and memory (RAM)...and receives input from the remote" (Klosterman 4:27-40) wherein the coordinator takes the television schedule information from the available source(s) or a data input line and sorts/mixes it (Klosterman 5:64- 67) and subsequently displayed (Klosterman 6:45-67). The modified system, using satellite television broadcasts for transmitting the second signal (as taught by Norin) and using satellite television broadcast for transmitting the first signal, the two signals transmitting the first and second program guide information over a same delivery system type (satellite delivery system), and therefore same network. Furthermore, Klosterman discloses that the receiver can detect duplicate network names when the two signal sources carry some overlap

signals. Therefore, the non-overlapping signals transmitted over the DBS comprise the first signal having a set of programs not a second set of programs that are transmitted over the non-overlapping channels of the second signal source. See Klosterman: column 7, lines 20-40 and Norin column 2, lines 12-15, wherein the second set of programs are "local broadcasts" transmitted independently of larger regional services.

As to claim 17, please see rejection of claim 16.

As to claim 18, please see rejection of claim 16.

As to claim 23, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include "an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal" (Klosterman 3:5-10). The claimed "a compiler, configured to segment the programs into the first set of programs and the second set of programs, and to generate first program guide information describing the first set of programs and second program guide information describing the second set of programs." Note the Klosterman reference discloses each of the program sources may also provide television schedule data within the signal transmitted by the service provider (Klosterman 5:1-4) wherein the program guide data is segmented into distinct sets of programs and it is inherent that such program guide information be compiled. However, the Klosterman reference is silent as to a compiler configured to perform this function. Now note the Thomas et al. reference that

discloses "[i]t is therefore an object of the present invention to provide an EPG data management and distribution system that collects data from multiple sources, processes the data to create a global database of television program schedule information, and distributes customized EPGs to a plurality of EPG providers (Thomas 3:43-47). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman transmission of EPG data with the Thomas et al. centralized segmentation of EPG data for the purpose of providing a central site/source that may parse all relevant program guide information and make such information available for broadcast without requiring each site to compile program data individually. The claimed "a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs [...] on the first signal is met by "IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system" (Klosterman 4:55- 58) wherein broadcasting transmitter is inherent to receipt of the television programs and other information. The claimed "second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs [...] on the second signal" is met by "program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television

schedule data within the signal transmitted by the service provider" (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a subset of the DBS channels. However, the Klosterman reference does not specifically disclose the transmission of the first and second set of program information on a first service channel. Now note the Chaney et al. reference that teaches a program guide in a digital video system wherein "[e]ach service of each program is identified by a unique Service Component Identifier (SCID), a service channel (Chaney 4:20- 25). The claimed program guide information provided on a "first service channel" is met by the assignment of a specific SCID to the program guide packetized data (Chaney 4:60-65) wherein the Chaney et al. reference teaches that the subject matter of this system is applicable to both satellite and terrestrial broadcasting (Chaney 2:66-3:3). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman tuner for receiving program with the Chaney et al. service channels including the transmission of program guide information on a first service channel for the purpose of providing a means for transmitting program information to a user in a manner that facilitates efficient retrieval of the program guide information from the transmission stream. Note the Klosterman reference discloses "television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources" (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal

characteristics. Now note Norin et al. reference that teaches a non-uniform multi-beam satellite communications system and method wherein "It]he present invention provides a new and improved, highly efficient system and method for satellite broadcast of local television and other types of service [independently] with larger regional broadcasts" (Norin 2:11-15) and "[i]n the preferred system the majority of the available channels are used for nationwide broadcasts, with the remaining channels reserved for local service beams" (Norin 7:46-48). The claimed "wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal" is met by the "32 transponder channels are typical for satellite television broadcasts in a given service, representing 16 different channels 24 MHz wide and separated by approximately 5 MHz, and two orthogonal polarizations...for each frequency band" (Norin 7:41-46). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman merging of program guide information from a plurality of different sources with the Norin global and localized (global subset) programming transmissions and different fundamental signal characteristics for the purpose of providing global and local programming while minimizing interference between the different programming streams and providing a more efficient utilization of satellite capacity (Norin 3:15-4:27). The modified system, using satellite television broadcasts for transmitting the second signal (as taught by Norin) and using satellite television broadcast for transmitting the first signal (as taught by Hoffman) two signals transmitting the first and second program guide

information over a common delivery system (satellite delivery system), and therefore same network. Furthermore, Klosterman discloses that the receiver can detect duplicate network names when the two signal sources carry some overlap signals. Therefore, the non-overlapping signals transmitted over the DBS comprise the first signal having a set of programs not a second set of programs that are transmitted over the non-overlapping channels of the second signal source. See Klosterman: column 7, lines 20-40.

As to claims 24-25, please see rejection of claim 23.

As to claim 26, the claimed "wherein the first transmitter comprises a first transponder and the second transmitter comprises a second transponder" is met by the Klosterman and Norin combination as discussed in the rejection of claim 23 wherein global and local programs may be transmitted on different transponders.

As to claim 27, the claimed "wherein the first transponder and the second transponder are disposed on a satellite" is met by the Klosterman and Norin combination as discussed in the rejection of claim 23 wherein the Norin reference teaches that "[w]hile all beams may be broadcast from a single satellite, situations may arise that could lead to a distribution of beams among multiple satellites" (Norin 7:58-60).

As to claim 28, the claimed "wherein the first transponder is disposed on a first satellite and the second transponder is disposed on a second satellite" is met by television channel broadcasts are received from at least two separate sources such as two different satellites (Klosterman 3:1-17) wherein a first transponder on a first

satellite and a second transponder on a second satellite are inherent to their respective transmissions of programming and television schedule guide information. Further note, the Klosterman reference discloses "[f]urthermore, when program information is received from multiple satellite sources and a desired channel is selected, the preset invention can, in one embodiment, automatically move the customer's satellite dish such that the customer receives the desired program from the associated source" (Klosterman 3:29-34). However, the Klosterman reference is silent as to the first satellite and the second satellite are disposed within a beamwidth of a receiver antenna. Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art that plural satellites may be disposed within a beamwidth of a receiver antenna for the purpose of providing data from such plural satellites without requiring a receiver antenna to be repositioned each time data is needed from a particular satellite and for the purpose of alleviating the delay in repositioning a satellite to receive requested data. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman plural satellite sources with the satellites disposed within a beamwidth of a receiver antenna for the above stated advantages.

As to claims 31-32 are met by that discussed in the rejection of claim 23.

As to claim 37, please see rejection of claim 16.

As to claim 38, please see rejection of claim 23.

6. Claims 19-21, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B1), and Stinebruner (US 6,133,910).

As to claim 19, the claimed "wherein the first program guide information includes information describing at least one surrogate channel." Note the Klosterman reference discloses "television schedule guide information can be received from numerous sources" (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed "wherein the first program guide information includes information describing at least one surrogate channel" is met by "[a] DBS content provider may even allocate blank channels to local programming" (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing "individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels" (Stinebruner 7:30-35). The claimed "the subscriber commands include a command to select at least one of the at least one surrogate channels; and the processor further tunes the tuner to receive the second program guide information in response to the command to select at least one of the at least one surrogate channels" is met by the

Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

As to claims 20-21, is met by the rejection of claim 16, wherein the Norin reference discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15), for the purpose of allowing for a cost effective way of achieving higher overall system throughput (i.e. spot beaming allows an efficient method of transmitting both local and regional broadcasts) (Norin 2:17-26).

As to claim 29, the claimed "wherein the first program guide information includes information describing at least one surrogate channel." Note the Klosterman reference discloses "television schedule guide information can be received from numerous sources" (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed "wherein the first program guide information includes information describing at least one surrogate channel" is met by "[a] DBS content provider may even allocate blank channels to local programming" (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information Sources

with the Stinebruner surrogate channels for the purpose of allowing "individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels" (Stinebruner 7:30-35).

As to claim 30, the claimed "wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal" is met by the Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable Klosterman (US 6,072,983) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B1), Stinebruner (US 6,133,910), and Eyer et al. (US 6,401,242).

As to claim 22, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs." Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs" is met by some of the programming received

from CATV may also be included in the program services transmitted via satellite wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

8. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Chaney et al. (US 5,867,207), Norin et al. (US 6,434,384 B1), and Eyer et al. (US 6,401,242).

As to claim 33, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs." Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed "wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs" is met by some of the programming received

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(10) Response to Argument

The examiner respectfully disagrees that the rejection should be reversed. Only those arguments having been raised are being considered and addressed in the Examiner's Answer. Any further arguments regarding other elements or limitations not specifically argued or any other reasoning regarding deficiencies in a prima facie case of obviousness that the appellant could have made are considered by the examiner as having been conceded by the appellant for the basis of decision of this appeal. They are not being addressed by the examiner for the Board's consideration. Should the panel find that the examiner's position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the examiner for further explanation prior to the rendering of a decision. See 37 CFR 41.50(a)(1) and MPEP 1211.

Appellant's traversal of the combination of the plurality of references stem primarily from appellant's mischaracterization of the Chaney reference, wherein appellant states (see Brief page 14) that, "Chaney teaches transmitting the same (merged) program guide on the same channel but this teaches away from transmitting different program guides on the same channel". First point to note here is that, Chaney teaches that there are instances where a user receives services from two satellites on the same receiver (see column 1, lines 32-40). Subsequent details of Chaney's disclosure describe in detail transmission of data from each individual satellite. Therefore, each of the two satellites further comprises multiple transponders, wherein the program guide corresponding to that satellite is transmitted on all the transponders of that satellite (akin to "physical channels"), the program guide occupying a logical/virtual first channel (the specific assigned SCID) in each satellite system (see column 4, lines 1-4 and 60-62). Therefore in the scenario comprising two satellites, Chaney discloses receiving a first program guide associated with the first satellite on a first channel (SCID '0000 0000 0001') and receiving a second program guide associated with the second satellite on a first channel (SCID '0000 0000 0001'). As Chaney does not disclose merging the program guide from the two satellites, appellant's arguments (see Brief, page 15) stating that, "Chaney also teaches transmitting two different signals by the same network" and stating (see Brief page 15) that, "Chaney also shows that it is known to transmit the same program guide (guide 1 + 2 above) on the same SCID", and improperly concluding (see page 16), "it is not

surprising since Chaney discloses a system wherein the program guide is merged before transmission" is found unpersuasive.

Noting that appellant characterizes (See Brief, page 12) Hofman as a system, "in which two different network transmit two different program streams to the same receiver using two different signals" and recalling that appellant characterizes (see Brief pages 12-13) Chaney as a system, "wherein both signals come from the same network and sent to the subscribers", and then improperly concludes (see Brief page 14) that, "any attempt to somehow combine these two system ignores the fact that they are fundamentally different and incompatible". From the previous paragraph, it can be seen that Chaney does in fact teach two different service providers (i.e. two satellites) transmitting two different program streams to the same receiver using two different signals. Hofman teaches a system which two different service providers (cable, DBS, etc.) transmit two different program streams to the same receiver using two different signals over different transmission mediums, wherein each of the service providers transmits a program guide associated with that service provider. Chaney teaches an instance wherein the program guides are transmitted on the same fixed SCID (SCID is '0000 0000 0001') for each satellite (i.e. service provider), and further shows that there are two satellite service providers. Accordingly the combination of Hofman in view of Chaney is deemed proper. Hofman and Norin further teach the step of the first signal transmitting a first set of programs not a second set of programs (see Hofman figures 9A and 9B, wherein programs offered by one service are not offered by the second service, and see Norin column 2, lines 12-15, wherein the second set of programs are

"local broadcasts" transmitted independently of larger regional services). Furthermore, it is also noted that Hofman's multiple service providers over different transmission medium types is consistent with appellant's own disclosure (see disclosure page 5, lines 28-30 and page 6 line 1) supports that other transmission means such "cable, or other means", can be used in lieu of satellite based distribution. That is, appellant's own disclosure contemplates the scenario wherein signals 618 and/or 616 (see Disclosure figure 6) maybe transmitted by cable or other means rather than satellite in the video distribution system.

Appellant also argues (see Brief page 19) that "there would be no reason for one of ordinary skill in the art to modify Klosterman as described in Chaney because they are directed to two different problems" because "Klosterman envisions a system whereby the programs are received from different networks (and hence there is some overlap between programs and a need to integrate the program guide at the receiver) and Chaney is directed to a system wherein programs are received from the same network and wherein the program guide information from all signals is consolidated into a single MPG before transmission". As discussed above, Chaney merely teaches the specifics of transmission of MPG pertaining to each satellite, wherein it is noted that customers may receive service from more than one satellite. Accordingly the modified system contemplates the transmission and reception of a first and second program guides over a first and second signal respectively, first and second signal transmitted from different satellites, wherein the two program guides are transmitted over the same channel (SCID '0000 0000 0001') of their respective signals.

Examiner additionally notes that there appears to be some confusion on the scope of "network" versus signal source types, presented by appellant's arguments (see Brief page 15) stating that, "it appears as if the Final Office Action argues that Hofman discloses signals broadcast by two different networks and Norin teaches that different signals can be transmitted by the same network". The examiner had previously construed the scope of networks to mean the same source type rather than appellant's broader definition of a "video distribution system" which in view of appellant's disclosure (see Disclosure fig. 6) is a video distribution system with multiple source providers (satellite 108 and 602). If applying the broader interpretation of "network" to be merely the "video distribution system", Hoffman, Chaney and Norin all present evidences for obtaining services from the video distribution system. For example, Hofman provides a system wherein receivers may receive services from a plurality of service providers, wherein each service provider illustratively use different transmission medium (i.e. cable, DBS, etc.). However, it should be noted that, the user receives services from "television distribution system" and therefore meets the claimed limitation of receiving first and second signal from a network. Alternatively, when applying the narrower definition as previously construed by the examiner, the modified system teaches first and second signal transmitted by two satellites, (i.e. the same signal source type reading on claimed "network"). See Chaney column 1 line 32-37 (two satellites providing services to a plurality of receivers) as well as Norin column 2, lines 12-15, (satellite broadcast of local television and satellite rebroadcast of larger regional broadcasts).

Appellant argues (see Brief pages 18-19) that, "Cheney teaches transmitting program guide information regarding the first and the second set of programs on the single channel" and therefore fails to teach "first set of programs but not a second set of programs". As discussed above, examiner notes that Chaney receives services from two satellites, wherein program guide is transmitted from each satellite at a first channel (SCID '0000 0000 0001'). Furthermore, examiner notes that when a user is receiving services from multiple service providers, there exist scenarios where user receives a second set of channels provided by the second service provider not available on the first set channels provided by the first service provider. This is further exemplified in the modified system by Klosterman who contemplates overlapping and non-overlapping signals over multiple carriers (therefore non-overlapping signals from a second source is 'second set' of programming not offered by first source) and by Norin who teaches that localized broadcast maybe transmitted independently of larger regional broadcasts. See Klosterman column 7 lines 20-40 and Norin column 2 lines 12-15.

Appellant traverses (see Brief pages 17-18) the combination of Eyer with the modified system of Hofman Chaney and Norin stating that, "recalling that the Office relied on Norin to argue that it was known in the prior art to transmit two separate signals (and one of them a spot beam), it could hardly be expected that the second signal or spot beam would be used by the same network to duplicative transmit the same information (the portion of first set of programs) to subscribers that are already receiving the program material via the primary beam". Examiner notes that there exist scenarios wherein a plurality of services maybe overlapped over multiple service

providers. Recalling that Chaney teaches transmission of services over two satellites (two service providers) to a receiver, wherein Norin teaches that one of the satellites may provide localized programming independently or in conjunction with larger regional broadcasts. In such scenarios, the satellite providing the localized programming in conjunction with some larger regional broadcasts may comprise some services duplicated from the other satellite. Accordingly it would be advantageous to modify the system in view of Eyer by indicating a preferred source for duplicated services.

Appellant argues (see Brief page 19) that, "the office action's rationale for combining the references does not seem to provide motivation for the same reason as described above in reference to claim 1" stating that, "if providing global and local programming (Norin) within different networks were goal, one of ordinary skill in the art would be motivated to follow Klosterman" and "if providing global and local programming (Norin) within the same network were the goal, one of ordinary skill in the art would be motivated to follow Chaney but no longer Klosterman". Examiner respectfully disagrees with appellant's assertions as Chaney teaches the step of receiving services from a plurality of service providers (namely two satellites), with the program guide provided on the same service channel of both providers, and Norin additionally teaches the step providing localized programming using satellite broadcasts. Accordingly one of ordinary skill in the art could use the teachings of Norin to provide localized broadcasts in conjunction with one of the two satellites as taught by Chaney thereby providing services over the same service type.

Finally, it is noted that all of the claimed limitations were known in the prior art and one of ordinary skill in the art could have combined elements as claimed by known methods with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention, the claims are deemed as been obvious for the reasons discussed above. See KSR International Co. v Teleflex Inc., (82 USPQ2d 1385).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Usha Raman

Conferees:

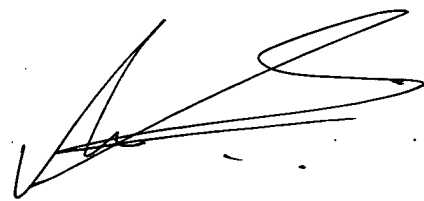
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